

CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION
DIVISION OF JUVENILE JUSTICE
Prison Rape Elimination Act (PREA)
Annual Report – Calendar Year 2019

The Federal Prison Rape Elimination Act (PREA) of 2003, was established to address the sexual abuse and sexual harassment of offenders in confinement settings. On August 20, 2012, the PREA Standards Final Rule, to help prevent, detect, and respond to sexual abuse, staff sexual misconduct, and sexual harassment behind bars, was released, prompting the revision of the California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) PREA policy. DJJ's PREA policy establishes zero tolerance for sexual abuse, staff sexual misconduct, sexual harassment, and provides guidelines for the prevention, detection, response, investigation, and tracking of allegations against DJJ youth offenders.

This report lays out the allegations of sexual abuse, staff sexual misconduct, and sexual harassment against youth received by the division. DJJ investigates each allegation it receives from youth, staff, or via third-party reports.

DEFINITIONS:

- Substantiated allegation – an allegation that was investigated and determined to have occurred.
- Unsubstantiated allegation – an allegation that was investigated and insufficient evidence was obtained to determine if the allegation did or did not occur.
- Unfounded allegation – an allegation that was investigated and proven not to have occurred.
- Ongoing investigation – the investigation was initiated and is ongoing.

STATISTICS:

The following are statistics of reported allegations within DJJ, by category:

► **Youth on Youth Nonconsensual Sexual Acts**

	2015	2016	2017	2018	2019
Substantiated	0	1	0	0	0
Unsubstantiated	3	7	2	0	1
Unfounded	0	0	1	0	1
Ongoing investigation	0	0	0	0	0
Total:	3	8	3	0	2

Youth on Youth Nonconsensual Sexual Acts are defined as contact of any person without his or her consent, or by coercion; or contact of a person who is unable to consent or refuse and contact between the penis and vagina, or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus or penetration of the anal or genital opening of another person by the hand, finger, or other object.

In 2019, there were two allegations in this category for Youth on Youth Nonconsensual Sex Acts. One was anonymous and historical in nature and had no identified victim or perpetrator, and one additional allegation was made and later recanted by the alleged victim during the investigation.

► **Youth on Youth Abusive Sexual Contact**

	2015	2016	2017	2018	2019
Substantiated	0	1	2	0	0
Unsubstantiated	3	2	4	5	4
Unfounded	0	0	0	0	1
Ongoing investigation	0	0	0	0	0
Total:	3	3	6	5	5

Youth on Youth Abusive Sexual Contact is defined as “contact of any person without his or her consent, or by coercion; or contact of a person who is unable to consent or refuse AND intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person”.

In 2015 and 2016, there were three allegations of Youth on Youth Abusive Sexual Contact. For the following year, 2017, there were six total allegations (an increase of 100 percent), two of which were substantiated. In 2018, there were five total allegations (a decrease of 16%), all of which were unsubstantiated. In 2019, there were five allegations, none of which were substantiated.

► **Youth on Youth Sexual Harassment**

	2015	2016	2017	2018	2019
Substantiated	0	1	3	1	1
Unsubstantiated	1	1	7	3	2
Unfounded	0	0	0	0	0
On-going investigation	0	0	0	0	0
Total:	1	2	10	4	3

Youth on Youth Sexual Harassment is defined as repeated and unwelcome sexual advances; requests for sexual favors; or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a youth toward another youth.

In 2015, the number of allegations for Youth on Youth Sexual Harassment was one, and there were two in 2016. In 2017, there was a substantial increase in allegations of youth on youth sexual harassment, only some of which were substantiated. In 2018, there were 4 total allegations of Youth on Youth Sexual Harassment, one of which was substantiated and resulted in disciplinary action. In 2019, three allegations were made, and one was substantiated, with youth disciplinary action pursued.

► **Staff on Youth Sexual Misconduct**

	2015	2016	2017	2018	2019
Substantiated	0	2	1	0	1
Unsubstantiated	6	11	5	3	4
Unfounded	0	1	0	1	3
Ongoing investigation	0	0	0	0	2
Total:	6	14	6	4	10

Staff on Youth Sexual Misconduct is defined as any threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and youth. The legal concept of “consent” does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and staff shall be subject to disciplinary action and/or to prosecution under the law.

The term “staff” is inclusive of employees, volunteers, and independent contractors assigned to a facility, youth conservation camp, or headquarters. DJJ’s zero tolerance policy holds all staff accountable when it is proven that they have violated the policy.

In 2015, the number of allegations for Staff on Youth Sexual Misconduct was six. In 2016 the number rose to 14 and, in 2017 it returned to a total of six allegations. In 2018, it decreased to four incidents, none of which were substantiated. In 2019, there were ten allegations, one of which was substantiated, and two others remain under investigation. Seven other allegations were unsubstantiated (4) or unfounded (3).

► **Staff on Youth Sexual Harassment**

	2015	2016	2017	2018	2019
Substantiated	0	1	0	0	0
Unsubstantiated	7	3	0	1	0
Unfounded	1	0	0	0	0
Ongoing investigation	0	0	0	0	0
Total:	8	4	0	1	0

Staff on Youth Sexual Harassment (towards youth) is defined as repeated verbal comments or gestures of a sexual nature to a youth by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

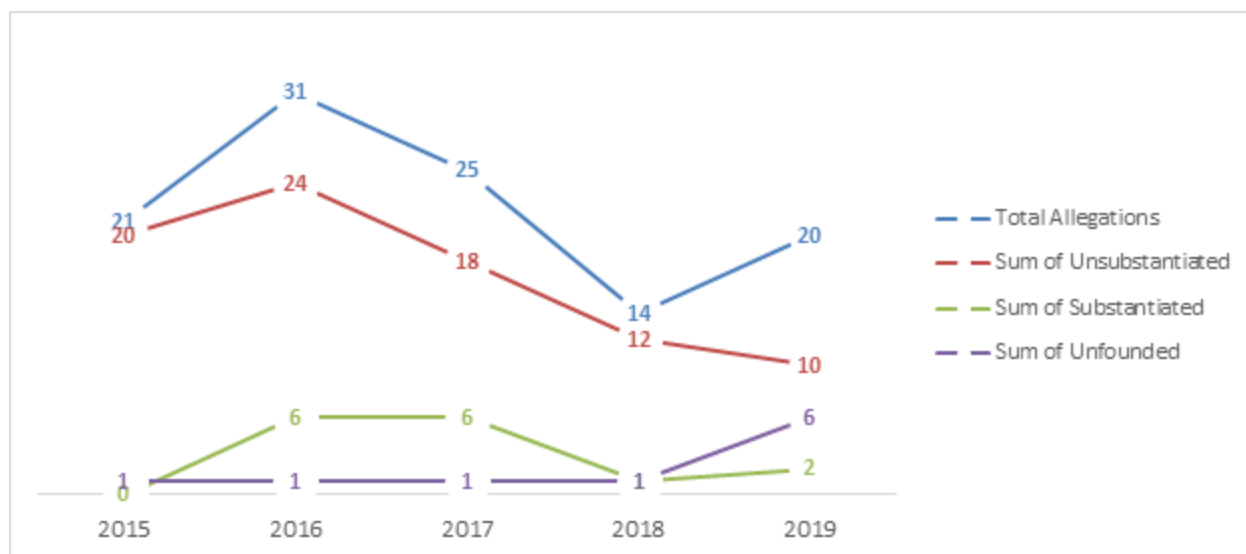
In 2015, the number of allegations for Staff on Youth Sexual Harassment was eight. In 2016, the number decreased to four and, in 2017 there were zero allegations of Staff on Youth Sexual Harassment. In 2018, there was a single allegation of Staff on Youth Sexual Harassment. For 2019, no allegations of staff on youth sexual harassment were made.

Total Number of PREA Allegations by Year:

	2015	2016	2017	2018	2019
Substantiated	0	6	6	1	2
Unsubstantiated	20	24	18	12	10
Unfounded	1	1	1	1	6
Ongoing Investigation					2
Total:	21	31	25	14	20

SUMMARY:

Overall, the number of PREA allegations reported in calendar year 2019 increased 43% from the total number of allegations in 2018. This number represents There were two substantiated claims. Staff misconduct allegations represented 50 percent of all allegations, whereas Youth on Youth allegations comprised the other 50 percent. Although this is a marked increase in total allegations over 2018, the number of substantiated allegations has only increased by one (with two ongoing investigations). This is most likely due to the increase in spurious allegations from a few youth.



Notably, in the past five years there has been a downward trend in total PREA allegations, for which there are several possible explanations. First, the majority of allegations are generally found to be related to youth using PREA as a tool against other youth and staff. As the quality and depth of the investigations increase, youth appear to be less likely to make false allegations. Second, the improvements in youth and staff training and awareness may truly be reducing any type of sexual impropriety in DJJ. Notably, auditors have reported that youth in the facilities report that they feel safe from sexual abuse and are well-educated on PREA and how to report concerns or allegations.

An ongoing issue that has inflated the overall allegation count is the increase in historical PREA allegations. As noted in last year's report, this appears to be occurring as more and more jurisdictions around the country become PREA-compliant and ask questions related to previous histories of sexual abuse. In 2019, there were four historical reports, comprising five unique allegations. Two were provided from current CDCR adult inmates, one from New Mexico, and one anonymous allegation. The most recent of these allegations was from 1999, with one additional from the mid 90's, one in 1984, and the oldest allegation was an anonymous letter reporting abuse and other acts occurring in 1952. We anticipate that these historical reports will continue to contribute to a higher total of allegations that may not reflect practices in the facilities.

OTHER PREA RELATED ACTIVITIES:

DJJ also engaged in the following efforts to ensure compliance with PREA Standards during 2019:

- Continued relationships with local Rape Crisis Centers (RCC) and CALCASA to provide services to youth as needed.
- Collaboration with CA Advancing Justice Detention Institute (JDI), in providing legal input on local RCC Memorandum of Understanding on DJJ leadership and encouraging PREA Compliance Managers to be consistent and strong partners to local RCCs.
- Participation in CJCA PREA Committee Meeting on Juvenile Risk Screenings, ongoing PREA updates, and webinars on Juvenile PREA standards.
- Continued relationship with OIG on revised PREA posters and disbursement for all DJJ sites.
- Applied Federal PREA funds to continue a revitalization project of NCYCC's video monitoring system.
- Additional revisions to DJJ's Conducting Searches policy to better align with PREA Juvenile Standards.

Pursuant to PREA Federal Standards 115.87 AND 115.88

- Revised DJJ PREA Refresher training documents to align with PREA Juvenile Standards.
- Revised and went into contract with our northern general hospital in relation to Forensic Exams
- Provided training to staff on professionally incorporating questions about Sexual Orientation, Gender Identity and Expression (SOGIE) into the intake process.
- Worked with DJJ programmer staff on moving forward with enhancements to current Ward Information Network (WIN) systems in the area of SOGIE and PREA Screening Tool.
- Provided training to staff on working with Transgender youth.
- A PREA Resource Center (PRC) representative provided training on the Online Audit System (OAS) to DJJ PREA Coordinator, Analyst, and facilities/camp Compliance Managers.
- Purchased Public Announcement System for enhancements to the DJJ Pine Grove Youth Conservation camp (PGYCC) in aligning with juvenile standards,
- Ongoing reproduction of PREA pocket guides for DJJ academy and all DJJ employees for continued staff education on juvenile standards.
- Ongoing PREA Block and Locally Designated Investigator (LDI) training for staff.

The Division of Juvenile Justice continues to progress in achieving PREA compliance by monitoring all allegations of sexual abuse, staff sexual misconduct, and sexual harassment. Each allegation is investigated by a trained investigator and reviewed by the facility's hiring authority and through an additional layer of review at Headquarters. Issues or trends are addressed immediately, but thoughtfully. This may include modifications to existing policy, procedures, education, or training. This can also take into consideration physical plant limitations and the need for additional monitoring equipment.

DJJ is committed to providing a safe, humane, secure environment, free from sexual abuse and harassment. As we move forward with this commitment, DJJ has partnered with outside agencies to review and audit policies and practices. Community partnerships with local Rape Crisis Centers (RCC) have enabled additional confidential support for youth, and training opportunities for staff and youth.

DJJ has secured a new contract for our next round of audits, originally scheduled to begin in FY 19/20. However, the COVID-19 pandemic delayed the contracting and auditing process. After delays, an audit date has been set for Pine Grove Youth Conservation Camp in mid-January 2021. Additional audits are tentatively scheduled for summer 2021, and throughout the remainder of 2021 and into 2022. Results from those audits and other continued improvements will be incorporated into future Annual Reports. It is anticipated those results will reflect DJJ's continued efforts to maintain a positive and safe environment for the youth in our care.

Approved for posting

☒ Approved ☐ Not Approved

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